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THE ARIZONA CORPORATION COMMISSION

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Commissioner

2001 APR 20 P 4: 21

AZ CORP COMMISSION
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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH SECTION 271 OF
THE TELECOMMUNICATIONS ACT
OF 1996

) DOCKET NO. T-00000A-97-0238
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Arizona Corporation Commission

DOCKETED

APR 20 2001

DOCKETED BY

QWEST'S MOTION TO STRIKE COVAD'S REPLY BRIEF

REGARDING INTERCONNECTION AND COLLOCATION IMPASSE ISSUES

Qwest Corporation ("Qwest") hereby submits this Motion to Strike to the Arizona Corporate Commission ("Commission") in response to Covad's Communications Company's ("Covad") Brief on Interconnection and Collocation Impasse Issues ("Covad's Reply Brief"), dated April 16, 2001.

Qwest hereby moves to strike Covad's Reply Brief for two reasons: (1) a public agreement was reached between Qwest, all other relevant workshop parties, and the Commission whereby reply briefs were eliminated, and; (2) even if, for argument's sake, such agreement had not been reached, Covad's Reply Brief must be stricken and considered no further because in it, Covad raises arguments for the first time, thus placing Qwest at an obvious disadvantage.

The series of public communications as well as electronic communications between all relevant workshop parties, Qwest and this Commission's staff representative, i.e., Maureen Scott, make clear that an agreement was reached whereby reply briefs were eliminated. In an electronic communication between Mr. Charles Steese (Qwest's representative) and Ms. Scott, dated February 21, 2001, at 3:34 p.m., Qwest indicated, among other issues, its opposition to filing reply briefs.¹ On February 28, 2001, at 3:08 p.m., Ms. Scott, in an electronic reply communication to Mr. Steese and all relevant parties,² indicated the Staff's proposed schedule changes:

First, Staff does not believe that there is a need for a reply brief. **One brief**, in addition to the transcripts and comments and testimony already in the record, **should be sufficient** for Staff to fully understand each parties' position and for Staff to resolve the issues. Second, if there are no major objections, Staff would like to move up the date for briefing on the two resale impasse issues to

¹ See attached e-mail, marked as Exhibit 'A.'

² Parties copied on the electronic communication: Andrea.Harris; James.T.Meister; Drfinch; Jfinch; Lsfriesen; Mlsinger; Rwolters; Dpozefsky; Jcarpenter; Swakefield; Rhip; Hagood; Hagoodb; Patten; Lizon; Mdoberne; Richard.Smith; Cmarks; Cattanch.Robert; Danielwaggoner; Gregkopta; Robbtanner; Mary.Tee; Klclauson; Dpoole; Jherron; Tberg; Tdwyer; Aisar; Mjrostein; Hines; Mhazzard; Gharris; Thc; Darren.Weingard; Eric.S.Heath; Aisar; Jsburke; Garylane; Dhsiao; CM707A; Joyce.Hundley; Acrain; Issteve; Jdowens; Jragge; Lsimpso; Mbumgar; Mjarnol; Mluekri; Nlubame; Pxmccau; Rkim; Sfraser; Sjshaw; Srbeck; Tfreebe; Thomas.F.Dixon; Jlivengood

March 14, 2001; and the date for briefing the collocation/interconnection issues to March 21, 2001. In suggesting to move these dates up Staff has taken into consideration the comments of AT&T, Sprint and Qwest and the fact that the parties have already briefed these issues in Washington. Additionally, unless these dates are spread out, Staff will be unable to meet its deadlines for producing its reports contained in the Commission's [sic] June procedural order.³

Later, on March 1, at 2:20 p.m., Ms. Scott addressed all parties in response to the proposed schedule referenced above. In that electronic communication, Ms. Scott stated: "[a]s a result of the comments received, the due date for briefs on interconnection and collocation will remain March 28, 2001, as agreed at the last workshop."⁴ However, no changes were made to the elimination of reply briefs. Further oral communications between all parties as well as electronic communications between other parties and this Commission, e.g., AT&T and Sprint,⁵ confirmed the agreement to eliminate reply briefs. Given the clear message that was sent to all parties involved, Covad's disregard of the agreed upon briefing schedule places Qwest at a great disadvantage by circumventing the agreement, and by taking advantage of the occasion to raise factual arguments never presented in the Workshop, or by any party in a prior brief. In either circumstance, striking this brief is appropriate.

For the reasons indicated above, Qwest respectfully requests this Commission to strike and consider no further Covad's Reply Brief.

³ See attached e-mail marked as Exhibit "B."

⁴ See attached e-mail marked as Exhibit "C."

⁵ See attached e-mail marked as Exhibit "B."

DATED this 20th day of April, 2001.

Qwest Corporation

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ORIGINAL and 10 copies of the foregoing filed
this 20th day of April, 2001 with:

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COPY of the foregoing hand-delivered
this 20th day of April, 2001, to:

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Lyn Farner, Chief Administrative Law Judge
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EXHIBIT A

From: Charles Steese [mailto:csteese@uswest.com]
Sent: Wednesday, February 21, 2001 3:34 PM
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Cc: mlsinger@att.com; rwolters@att.com; rhip@bellatlantic.net;
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Subject: Re: Interconnection, Collocation, resale briefing
schedule

During the February 13-15 follow-up workshop on interconnection, collocation and resale, a briefing schedule was discussed wherein a late March 2001 brief was contemplated followed by a reply brief. Although Qwest representatives were party to this discussion, Qwest formally requests that the contemplated briefing schedule be discarded and a new schedule set for the following reasons.

1. All parties that participated in this workshop are also parties to the Washington workshop on the same topics. All parties have already briefed the exact impasse issues in that state. Therefore, it should be a relatively easy task to complete the briefs for Arizona.
2. The Arizona Procedural Order did not contemplate briefs at this stage.
It contemplates the creation of a draft report 20 days after the workshop concludes. Nonetheless, Qwest will not oppose the submission

briefs so long as they occur in a very prompt timeframe. Qwest opposes reply briefs altogether. They are simply not necessary. For example, Washington has required the submission of briefs 11 days after one workshop and 21 days after the other workshop concluded without the submission of reply briefs.

3. The objective should be to obtain resolution from the Commission on all impasse issues before completion of the OSS Test. Delayed briefing schedules may make this difficult if not impossible.

4. Staff must create reports within 20 days of completion of the workshop. If the briefs are delayed, this will place an undue burden on Staff by requiring to create several reports all at one time. The reports should be spaced such that Staff can timely complete its work.

5. Prompt Commission resolution of issues will, if necessary, allow Qwest to modify its SGAT and procedures to offer services in conformance with the Commission resolution.

6. A prompt schedule is necessary to keep issue resolution on track for completion in advance of the OSS Test.

As a result, Qwest requests that simultaneous briefs be filed on March 8, 2001, without any reply briefing. As a general rule, Qwest recommends that on a going forward basis, all parties be required to submit briefs 14 calendar days after a workshop concludes. Moreover, if a workshop concerns several topics and some of the topics conclude and others do not, Qwest recommends that this trigger briefing on the closed topics. This should keep us moving quickly toward resolution of all issues. In this particular case, Qwest is willing to extend the briefing beyond the 14 days to three weeks because it is making this recommendation after the workshop has closed. Thus, this will provide 14 days for all parties to get their briefs in order. Again, this amount of time should not be necessary as the same briefs were already created and submitted in Washington.

Qwest requests that the Staff in consultation with DCI make a prompt decision on when briefs for this workshop will be due as well as the procedure that all parties must follow in future workshops.

EXHIBIT B

From: MScott [mailto:MScott@CC.STATE.AZ.US]
Sent: Wednesday, February 28, 2001 3:08 PM
To: csteese
Cc: MScott; andrea.harris; james.t.meister; drfinch; jfinch;
lsfriesen; mlsinger; rwolters; dpozefsky; jcarpenter; swakefield; rhip;
hagood; hagoodb; patten; Llzon; mdoberne; richard.smith; cmarks;
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jragge; lsimpso; mbumgar; mjarnol; mluckri; nlubame;
pxmccau; rkim; sfraser; sjshaw; srbeck; tfreebe;
thomas.f.dixon; JLivengood
Subject: Re: Interconnection, Collocation, resale briefing
schedule

Staff would propose the following based upon the comments received back from Letty Friesen and Eric Heath on this issue, and Chuck's comments below. First, Staff does not believe that there is a need for a reply brief. One brief, in addition to the transcripts and comments and testimony already in the record, should be sufficient for Staff to fully understand each parties' position and for Staff to resolve the issues. Second, if there are no major objections, Staff would like to move up the date for briefing on the two resale impasse issues to March 14, 2001; and the date for briefing the collocation/interconnection issues to March 21, 2001. In suggesting to move these dates up Staff has taken into consideration the comments of AT&T, Sprint and Qwest and the fact that the parties have already briefed these issues in Washington. Additionally, unless these dates are spread out, Staff will be unable to meet its deadlines for producing its reports contained in the Commission's June procedural order. Please advise by c/o/b tomorrow, February 29, if you have any objections to Staff's proposed changes.

Maureen A. Scott
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(602) 542-6022

EXHIBIT C

Maureen Scott <MScott@CC.STATE.AZ.US> on 03/01/2001 02:20:24 PM

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Subject: RE: Interconnection, Collocation, resale briefing
schedule

As a result of the comments received, the due date for briefs on interconnection and collocation will remain March 28, 2001, as agreed at the last workshop. However, since there are only two resale issues at impasse, Staff will require that those issues be briefed by an earlier date, March 16, 2001. This change is being made by Staff to give it sufficient time to get all of these reports out within the timeframes required by the June Procedural Order.

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